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## Chapter 21.12 – Interpretation of Implementation Plan Provisions

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### Sections:

- 21.12.010 Purpose
- 21.12.020 Rules of Interpretation

### 21.12.010 – Purpose

This chapter provides rules for resolving questions about the meaning or applicability of any part of this Implementation Plan. The provisions of this chapter are intended to ensure the consistent interpretation and application of the requirements of this Implementation Plan.

### 21.12.020 – Rules of Interpretation

- A. **Authority.** The Director has the authority to interpret the meaning of provisions of this Implementation Plan, including maps, and to apply and/or enforce the Implementation Plan. The Director may also refer any interpretation to the Commission for input or a determination. An interpretation made by the Director may be appealed to the Commission in compliance with Chapter 21.64 (Appeals).
- B. **Language.** When used in this Implementation Plan, the words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory. “Should” is not mandatory, but is strongly recommended, and “may” is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the common meaning of the word indicates otherwise. The words “includes” and “including” shall mean “including, but not limited to.”
- C. **Calculations.**
  - 1. **Residential Density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential coastal zoning district requires a minimum site area per dwelling unit of one thousand five hundred (1,500) square feet; a site of ten thousand (10,000) square feet would be allowed six dwelling units.  
  
Example:      Ten thousand (10,000) sq. ft. site area/one thousand five hundred (1,500) sq. ft. per unit = 6.66 dwelling units. This would be rounded down to six dwelling units.
  - 2. **Other Calculations.** For calculations other than residential density, the fractional/decimal results of calculations shall be rounded to the next highest whole number unless otherwise specified.

3. **Time Limits.** Whenever a number of days is specified in this Implementation Plan, or in a permit, condition of approval, or notice provided in compliance with this Implementation Plan, the number of days shall be construed as calendar days unless otherwise specified. Where the last of the specified number of days falls on a weekend, holiday, or other day the City is not open for business, the time limit shall extend to 5:00 p.m. on the following business day.
- D. **Conflicting Requirements.** Where conflict occurs between the provisions of this Implementation Plan and any other City Code, title, chapter, resolution, guideline, or regulation, the more restrictive provision shall control unless otherwise specified in this Implementation Plan or unless the more restrictive provision is less protective of coastal resources.
- E. **Unlisted Uses of Land.** If a proposed use of land is not specifically listed in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards), the use shall not be allowed, except as provided below.
  1. **Director's Interpretation.** The Director may determine that a proposed land use that is not listed in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be allowed if the following findings can be made:
    - a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the coastal zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the coastal zoning district;
    - b. The proposed use will meet the purpose/intent of the coastal zoning district that is applied to the location of the use;
    - c. The proposed use will be consistent with the goals, objectives, and policies of the Coastal Land Use Plan;
    - d. The proposed use is not listed as allowable in another coastal zoning district; and
    - e. The proposed use is not a prohibited or illegal use.
  2. **Applicable Standards and Permit Requirements.** When the Director determines that a proposed but unlisted land use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Implementation Plan apply.
- F. **Coastal Zoning Map Boundaries.** If there is uncertainty about the location of a coastal zoning district boundary shown on the official Coastal Zoning Map, the Director shall determine the location of the boundary in the following manner:
  1. Where the Coastal Zone boundary follows a street or alley, the boundary of the Coastal Zone shall be construed as the inland boundary of the improved

right-of-way as it exists as of January 1, 1977, or as modified by closure or additional improvement thereafter provided that it shall not be more than 100 yards inland from the center line.

2. Where a district or area boundary approximately follows a lot line, street or alley line, the lot line, street centerline, or alley centerline shall be construed as the district boundary;
3. Where a district or area boundary divides a lot and the boundary line location is not specified by distances indicated on the subject map, the location of the boundary shall be determined by using the scale appearing on the map;
3. Where a public street or alley, or a portion thereof, is officially vacated or abandoned, the property that was formerly in the street or alley shall be included within the coastal zoning district of the adjoining property on either side of the centerline of the vacated or abandoned street or alley;
4. Where a district or area boundary approximately follows the shoreline of the Pacific Ocean, the boundary shall be construed to follow the mean high tide line; or
5. Where a district or area boundary approximately follows the waterfront of Newport Bay, the boundary shall be construed to follow the bulkhead line.

G. **Permit and Appeal Jurisdiction Map boundaries.** If there is uncertainty about the location of a boundary shown on the Permit and Appeal Jurisdiction Map, or if the boundary bisects a lot, the Director shall proceed as follows:

1. If the uncertainty involves the specific location of a boundary line, the Director shall use any of the methods provided in Subsection F, above, provided the determination would not adjust the boundary line onto or out of any portion of an existing lot;
2. If a boundary line bisects any portion of a lot, the entire lot shall be determined to be within the boundary of the mapped area; or
3. In order to avoid bisecting a lot or to conform a boundary to readily identifiable natural or manmade features, the City may request the Coastal Commission to adjust the boundary of the Coastal Zone up to a maximum of 100 yards inland, or a maximum of 200 yards seaward. Where an inland adjustment is requested by the City and agreed to by the property owner, the maximum distance shall be 200 yards.

H. **Illustrations.** In case of a conflict between the Implementation Plan text and any diagram, illustration, or image contained in the Implementation Plan, the text shall control.

I. **Guidelines.** Guidelines augment and expand on the policies and regulations of the Local Coastal Program. Guidelines are not quantitative standards and are therefore subject to interpretation.

J. **Use of Headings.** The headings of the chapters, sections, and subsections of this Implementation Plan, together with the accompanying examples and explanatory notes,

are inserted as a matter of convenience and are not intended to define, limit, or enlarge the scope or meaning of this Implementation Plan or its provisions.